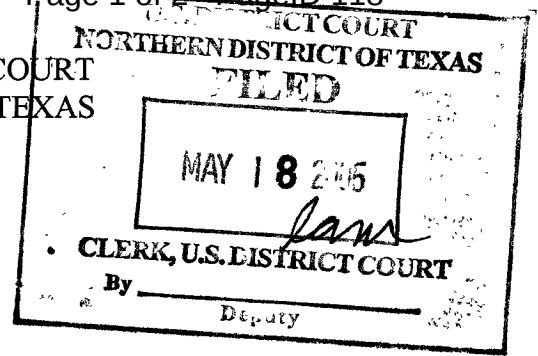


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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION



CARL SLEDGE,

Petitioner,

v.

DOUGLAS DRETKE, Director, Texas
Department of Criminal Justice,
Correctional Institutions Division,

Respondent.

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Civil Action No. 3:03-CV-1261-M

**ORDER MODIFYING AND OTHERWISE ACCEPTING FINDINGS, CONCLUSIONS
AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

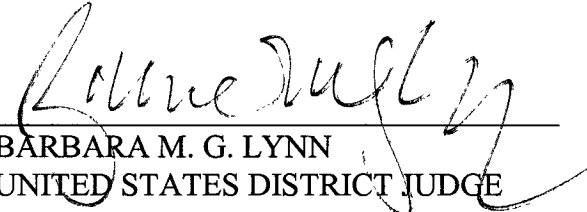
On April 26, 2005, United States Magistrate Judge Paul D. Stickney made Findings, Conclusions and a Recommendation in this case. Respondent filed Objections, and the District Court has made a *de novo* review of those portions of the Findings and Recommendation to which objection was made. The Objections are sustained in one respect. In footnote 1 of the Objections, the Respondent refers to Exhibits offered at the evidentiary hearing, specifically a June 10, 2001 letter from Petitioner (see bates number 038), in which Petitioner acknowledges receiving on June 6, 2001¹ a letter from the Court of Appeals stating that it had issued an opinion on March 26, 2001, to affirm. In this Court's view, the letter from the Court of Appeals ends the period of equitable tolling. However, that conclusion does not affect the result recommended by the United States Magistrate Judge. Petitioner is entitled to equitable tolling from the date his conviction was affirmed

¹ The Court assumes from Petitioner's June 10, 2001 letter that he **received** the letter from the Court of Appeals on June 6, 2001. The outcome would not be different if it was mailed on June 6 and received on June 10.

on March 26, 2001, until June 6, 2001, and he then had one year, or until June 6, 2002, to file his federal habeas petition. The state habeas petition tolled the limitations period from May 14, 2002 until May 7, 2003. At that time, Petitioner had forty one days remaining on the limitations period. He filed the instant petition twenty three days later, on May 30, 2003. His petition is therefore timely, and the Court accepts the Findings, Conclusions and Recommendation of the United States Magistrate Judge to that effect.

IT IS THEREFORE ORDERED that Respondent's motion to dismiss the petition as barred by limitations is denied, and Respondent is ordered to file an answer in accordance with Rule 5 of the Rules Governing Habeas Corpus Cases Under Section 2254, within forty-five days of the date of this Order.

SO ORDERED this 18 day of May, 2005.



BARBARA M. G. LYNN
UNITED STATES DISTRICT JUDGE